



METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Administration Committee

DATE: July 3, 2013

FR: General Counsel

W. I. 1111

RE: MTC Resolution No. 1198, Revised - Revisions to MTC's Conflict-of-Interest Code to update lists of designated positions – Release for Public Comment.

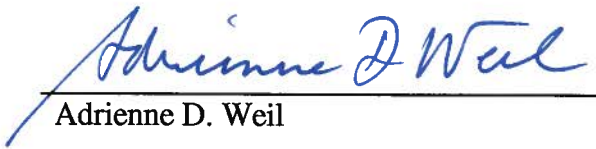
The Metropolitan Transportation Commission's (MTC) conflict-of-interest code, which also serves as the conflict-of-interest code for the Bay Area Toll Authority (BATA), the MTC Service Authority for Freeways and Expressways (MTC SAFE), the Bay Area Headquarters Authority (BAHA) and the Bay Area Infrastructure Financing Authority (BAIFA) is being updated this year in order to update the designated positions to reflect MTC's current organizational structure, to include MTC's "Principal" positions as designated positions, and to assign disclosure categories to the Principal positions.

Incumbents of positions designated in the Appendix to MTC's proposed conflict-of-interest code must file an annual Statement of Economic Interest (FPPC Form 700) with the agency. The attached draft code is amended consistent with FPPC Regulation 18734, which requires individuals serving in newly budgeted positions to file Form 700, the Statement of Economic Interests. The disclosure should be tailored to the job duties and treated in the same manner as consultants. The enclosed "track changes" version (*additions in italics and underlined*) reflects the most recent changes from the version of MTC Resolution No. 1198, last approved by the FPPC on April 17, 2013. The changes reflect the addition of a Senior Counsel position and the Principal positions added to the organization during the past fiscal year. This change is consistent with the scope of the responsibilities placed on the Principals. The disclosure categories are generally commensurate with the disclosure categories that apply to the Section Directors.

FPPC amendment procedures require that a written notice of intent to amend the conflict-of-interest code must be given 45 days prior to the time MTC takes formal action. This memorandum constitutes that written notice. The comment period will run from Wednesday, July 10, 2013 through Monday, August 26, 2013. This memorandum will be posted in MTC's library, and copies of the proposed revised code will be made available to any interested person who calls Rosy Levya, Secretary to the Commission, during business hours at (510) 817-5700. Written requests for copies of the amendment and written comments on the amendment may be sent to Ms. Levya at MTC offices, 101 – 8th Street, Oakland, CA 94607-4700.

Any interested person may request a public hearing to comment on the proposed amendment, if any such request is made no later than 15 days prior to the close of the comment period, or by Friday, August 9, 2013. If no request for a hearing is received, staff will return on September 11, 2013 to seek Committee authorization to submit the proposed code to the FPPC for approval, and to refer the approved code to the Commission for adoption at a date to be determined.

Staff requests this Committee's authorization to circulate the proposed changes for public comment, and for authorization to schedule a public hearing if there is a request from the public to do so.



Adrienne D. Weil

METROPOLITAN TRANSPORTATION COMMISSION

NOTICE OF INTENTION TO ADOPT OR AMEND A CONFLICT-OF-INTEREST CODE

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission intends to adopt or amend a conflict-of-interest code pursuant to Government Code Section 87300 and 87306. Pursuant to Government Code Section 87302, the code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on July 10, 2013 and terminating on August 26, 2013. Any interested person may present written comments concerning the proposed code no later than August 26, 2013 to the Metropolitan Transportation Commission, 101 Eighth Street, Oakland, CA 94607. No public hearing on this matter will be held unless any interested person or his or her representative requests no later than 15 days prior to the close of the written comment period, a public hearing.

The Metropolitan Transportation Commission has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

A conflict-of-interest code is being adopted to identify the officials that make or participate in making governmental decisions.

Copies of the proposed code and all of the information upon which it is based may be obtained from Rosy Leyva, Secretary to the Commission, Metropolitan Transportation Commission, 101 Eighth Street, Oakland, CA 94607. Any inquiries concerning the proposed code should be directed to Adrienne D. Weil, General Counsel, at (510) 817-5700 or AWeil@mtc.ca.gov.

NOTE: This notice should be filed with the Fair Political Practices Commission and served individually on agency employees and officers affected by this code 45 days prior to agency action.

CONFLICT-OF-INTEREST CODE FOR THE METROPOLITAN TRANSPORTATION COMMISSION

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 *et seq.*, is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways (“MTC SAFE”) pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority (“BATA”) pursuant to Streets and Highways Code Section 30950 *et seq.* The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. Sec. 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency’s code. After public notice and hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. Sec. 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Metropolitan Transportation Commission (MTC)**.

Individuals holding designated positions shall file their statements of economic interests with **MTC**, which will make the statements available for public inspection and reproduction (Government Code Sec. 81008). Upon receipt of statements for the MTC Commissioners and from the Executive Director, **MTC** shall make and retain copies and forward the originals to the **Fair Political Practices Commission**. All other statements will be retained by **MTC**.

APPENDIX A

DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
General Counsel	1, 3, 4
Deputy General Counsel	1, 3, 4
<i><u>Senior Counsel</u></i>	<i><u>1, 3, 4</u></i>
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services (<i><u>ATS</u></i>)	2, 3
Director, Planning (<i><u>PLN</u></i>)	2, 3
Director, Operations (<i><u>OPS</u></i>)	2
Director, Electronic Payments (<i><u>EPS</u></i>)	2
Director, Programming and Allocations (<i><u>PAC</u></i>)	2, 3
Director, Legislation and Public Affairs (<i><u>LPA</u></i>)	1, 3
Director, Bay Area Headquarters Authority (“BAHA”)	1, 2, 3
<i><u>Principals: ATS, PLN, PAC</u></i>	<i><u>2, 3</u></i>
<i><u>Principals: OPS, EPS</u></i>	<i><u>2</u></i>
<i><u>Principals: LPA</u></i>	<i><u>1, 3</u></i>
<i><u>Principals: BAHA and Finance Section</u></i>	<i><u>1, 2, 3</u></i>
Consultants/New Positions	*

*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-of-interest code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners
Chief Financial Officer
Executive Director

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

APPENDIX B

DISCLOSURE CATEGORIES

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

- CATEGORY 1** – Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** – Investments and business positions in business entities, and income including receipt of loans, gifts, and travel payments, from, sources that provide services, products, or equipment of the type utilized by the designated position's department or division.
- CATEGORY 3** – All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.
- CATEGORY 4** – Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from, sources that filed a claim against MTC during the previous two years, or have a claim pending against MTC.